

REMARKS

Summary

Reconsideration of the application is respectfully requested. Claims 1-5, 7-18, 20-23, and 25-27 have been rejected. Claim 18 has been cancelled without prejudice. Editorial amendments have been made to claims 1, 7, 8, 14, and 20. Claims 28 and 29 are new. All amendments are fully supported; no new matter has been added. Claims 1-5, 7-17, 20-23, and 25-29 are pending.

Statement of Substance of Examiner Interview

A telephone interview was conducted between Applicant's representatives and the Examiner on November 19, 2009. In attendance, in addition to Examiner Mansfield, were Ryan Fox, Reg. No. 65,369; Al AuYeung, Reg. No. 35,432; Robert Barr, Reg. No. 32,191; and inventor Anil Kamath.

Applicant thanks the Examiner for the interview and for the Interview Summary mailed December 24, 2009. The rejections of the claims under 35 U.S.C. § 103 were discussed. Applicants' representatives offered suggestions for claim amendments, and discussed these with the Examiner, who made further suggestions for claim amendments. Applicants representatives also discussed distinctions between the cited references and the claimed subject matter, and in particular differences between actions made before bidding and after bidding.

Applicant thanks the Examiner for the opportunity to discuss the application.

Rejections Under 35 U.S.C. § 103

Claims 1-5, 7-18, 20-23, 25, and 26 were rejected as being obvious under 35 U.S.C. § 103(a) over U.S. Patent No. 7,363,300 issued to Davis et al. (hereinafter "Davis") in view of U.S. Pub. No. 2008/0097830 to Kim (hereinafter "Kim"). Claim 18 has been cancelled and therefore its rejection is moot. As for the pending claims, Applicant respectfully submits that the claims, as amended recite at least one element that is not taught by Davis and Kim, taken either separately or in combination. For at least this reason, Applicant requests that the rejection of claims 1-5, 7-17, 20-23, 25, and 26 be withdrawn and the claims be allowed.

The independent claims have now been amended to recite a method, an article or an apparatus, that performs activities to determine a bidding strategy *before* placement of bids. For example, independent claim 1, as amended, recites, in part:

facilitating, . . . prior to placing one or more bids among the marketing options, specification of one or more models that model one or more performance metrics for the plurality of marketing options . . . ;

determining, . . . prior to placing the one or more bids, a bidding strategy for directing allocation of monetary resources to place the one or more bids among the plurality of marketing options, wherein determining includes quantitatively finding an optimal solution for an objective function, using the specified one or more models . . . ; and

after determining the bidding strategy, . . . generating a report . . . on the determined bidding strategy for use to allocate monetary resources to place the one or more bids among the marketing options.

[Emphasis added.] Independent claims 14 and 20 recite analogous language. For example, the Application, at page 6, describes an example of determining a bidding strategy before execution of the strategy:

The solution to the optimization problem can be a set of marketing purchase decisions or a market budget allocation strategy (also refer to as a bidding strategy) 520 that needs to be executed by the organization.

[Application, at page 6, paragraph 0021.] Later, the Application describes examples of how, once the bidding strategy has been determined, it may be used to direct the allocation of monetary resources to place bids:

In various embodiments, the marketing strategy or spending decisions (bidding strategy) 520 may be implemented 522 to make bids 524. . . . For example, based on the availability of cheaper marketing options 526, a decision may be made to stop an advertising campaign at a specific site or . . . the bid or the maximum cost per click that an organization presumably is willing to pay for a paid listing for a keyword, may be changed,

[Application, at page 7, paragraph 0041.]

Applicant submits that none of the cited references, individually or in combination teach each and every element of the claimed method, article and apparatus. None of the cited references, individually or in combination, teaches at least, for example, “determine[ing], prior to placing the one or more bids, a bidding strategy . . . wherein determining includes quantitatively finding an optimal solution for an objective function, using the specified one or more models” as recited in claim 1.

In particular, Applicant respectfully traverses the Action's reliance on the Davis reference. The Davis reference is directed to a system and method for allowing bids for positions on a network search list. [See, Davis, at Abstract.] The Action argues that different positions on Davis' "search listing" reads on the claims' "bidding strategy" language. [See, Action, at pages 3 and 4.] The Action also argues that Davis' "rank value" and reads on the "objective function" language of the claims as then-pending. [See, *id.*]

Applicant respectfully submits that these features of Davis do not read on the amended claim language. Davis describes its ranked search listings as being created only *after* bids are already placed:

The advertiser may use the account to place bids on search terms that are relevant to the advertiser's web site. . . .

The higher the bid, the more advantageous the placement in the search result list that is generated when the bidded search term is entered by a searcher using the search engine. The search result list is arranged in order of decreasing bid amount, with the search listing corresponding to the highest bids displayed first to the searcher.

[Davis, at column 5, lines 23-43.] Later descriptions of details of Davis' bidding process with reference to Davis' Figure 5 confirm that Davis' search rankings are performed after bids have been submitted:

The advertising information section 330 contains information needed to conduct the online bidding process of the present invention, wherein a position is determined for a web site description and hyperlink within a search result list generated by a search engine. . . .

The search listing 344 corresponds to a search term/bid pairing and contains key information to conduct the online competitive bidding process. . . .
The advertiser selects a search term to bid on that is relevant to the content of the advertiser's web site. . . .

. . .
The bid amount 358 preferably is a money amount bid by an advertiser for a listing. . . . *Finally, a rank value is a value generated dynamically, preferably by the processing system 34 of the account management server 22 shown in FIG. 1, each time an advertiser places a bid or a search enters a search query. . . .*
[T]he higher the bid amount, the higher the rank value, and the more advantageous the placement location on the search result list.

[Davis, at column 12, line 25 to column 13, line 24.] Applicant respectfully submits that, as the quoted passages demonstrate, Davis' ranked search listing is performed based on bids and only after the bids are placed. As such, it cannot teach "determine[ing], prior to placing the one or

more bids, a bidding strategy . . . wherein determining includes quantitatively finding an optimal solution for an objective function, using the specified one or more models” as recited in claim 1. For similar reasons, analogous language of independent claims 14 and 20 is also not taught by Davis.

Davis does not teach at least one element of the independent claims. Applicant furthermore does not find relevant disclosure in Kim, which is directed to delivery of advertising units and describes a revenue model that generates revenues based on pre-determined fees [*See*, Kim, at Abstract and paragraphs 0097-0099.] Accordingly, for at least the above discussed reasons, independent claims 1, 14 and 20 should be allowable over Davis and Kim.

Claims 2-5, 7-13, 15-17, 21-23, and 25-29 depend from either independent claim 1, 14 or 20, incorporating their recitations. Thus, for at least the same reasons, dependent claims 2-5, 7-13, 15-19, 21-23, and 25-29 should also be allowable over the cited references. Applicant respectfully requests that the rejection of claims 1-5, 7-17, 20-23, and 25-29 be withdrawn and that the claims be allowed.

Conclusion

Applicant submits that the pending claims in the present application are in condition for allowance. A Notice of Allowance is respectfully requested.

If there are any questions, the Examiner is invited to contact the undersigned at (503) 796-2446. Also, the Commissioner is hereby authorized to charge shortages or credit overpayments to Deposit Account No. 500393.

Respectfully submitted,

SCHWABE, WILLIAMSON & WYATT, P.C.

Dated: January 14, 2009

/ Ryan C. Fox/

Ryan C. Fox

Registration No. 65,369

Pacwest Center, Suite 1600
1211 SW Fifth Avenue
Portland, Oregon 97204
Tel: (503) 222-9981
Fax: (503) 796-2900